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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/783,157	02/20/2004	Laurent Denoue	FX/A3006	T879
23910 7590 08/31/2007 FLIESLER MEYER LLP 650 CALIFORNIA STREET 14TH FLOOR SAN FRANCISCO, CA 94108			EXAMINER KASSA, YOSEF	
			ART UNIT 2624	PAPER NUMBER
			MAIL DATE 08/31/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/783,157

**Applicant(s)**

DENOUE ET AL.

**Examiner**

YOSEF KASSA

**Art Unit**

2624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>05/27/2005</u> . | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over De Bonet (U.S. Patent 5,852,823).

With regard to claim 1, Bonet discloses receiving at least one search result, the search result comprising an image (please refer to col. 6, lines 1-4);

determining a usability of the image according to visual characteristics of the image (refer to col. 6, lines 5-11); and

assigning a new rank to the search result in response to the usability of the image (refer to col. 6, lines 12-14). Although, Bonet reference does not expressly call for assigning a new rank to the search result, it would have been obvious if not inherent, that Bonet does in fact "test image similarity in rank order", that is, test image compared against the average and variance vectors and the similarity measures are then rank ordered (refer to col. 6, lines 33-56). Thus, an ordinary artisan would have recognized

the term "measuring test image similarity in rank order process" is used in Bonet reference broadly meets the claimed invention.

With regard to claim 2, Bonet discloses wherein determining a usability comprises determining a number of edges for the image (refer to col. 15, lines 59-66).

With regard to claim 3, Bonet discloses wherein determining a usability comprises determining a number of segments for the image (refer to col. 19, lines 12-18).

With regard to claim 4, Bonet discloses wherein determining a usability comprises determining a number of colors for the image (refer to col. 22, lines 7-16).

With regard to claim 5, Bonet discloses wherein determining a usability comprises determining a file format for the image (refer to col. 22, lines 1-12).

With regard to claim 6, Bonet discloses wherein the usability comprises a similarity to previously acquired images (refer to col. 22, lines 25-31).

With regard to claim 7, Bonet discloses wherein the usability comprises an ease of modification for the image (refer to col. 19, lines 7-13).

With regard to claim 8, Bonet discloses wherein the usability comprises a similarity to an image style (refer to col. 21, lines 62-67).

Claims 9-16 and 17-26 are similarly analyzed and rejected the same as claims 1-8.

***Other Prior Art Cited***

2. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US Patent No. (6817982), (6640145), (6335985), (5899999) and (5819288).

***Conclusion***

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to YOSEF KASSA whose telephone number is (571) 272-7452. The examiner can normally be reached on Monday-Thursday from 8:00 AM to 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bhavesh Mehta can be reached on (571) 272-7453. The fax phone numbers for the organization where this application or proceeding is assigned is (571) 273-8300 for regular communication and (571) 273-8300 for after Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the customer service office whose telephone number is (571) 272-2600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>.

Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**YOSEF KASSA**

**PRIMARY EXAMINER**

A handwritten signature in black ink, appearing to read 'Y Kassa', written over the printed name and title.

08/22/2007